

SAFE POINT SAN DIEGO
CLEAN SYRINGE EXCHANGE PROGRAM

ANNUAL REPORT

July 1, 2009 – June 30, 2010

CSEP FACILITATION COMMITTEE

The purpose of this report is to inform elected officials and the public regarding the current status of Safe Point San Diego, the Clean Syringe Exchange Program (CSEP) in the City of San Diego, and to satisfy the state's annual reporting requirements.

BACKGROUND

On November 27, 2001 the City Council adopted Resolution No. R-295797, declaring the existence of a state of local emergency in the City of San Diego due to the spread of the Hepatitis C Virus (HCV) and Human Immunodeficiency Virus (HIV) exacerbated by the shared use of hypodermic needles and syringes by injection drug users. In addition, the City Council authorized the implementation of a one-year Clean Needle and Syringe Exchange Pilot Program linked to drug abuse treatment programs at no cost to the City. The program was funded by Alliance Healthcare Foundation and operated by Family Health Centers of San Diego.

The objectives of the program were to: reduce the transmission of HCV and HIV caused by the sharing of syringes; educate substance abusers about the risks of drug abuse and offer testing for infectious diseases; and facilitate referrals for program clients to drug treatment and other necessary services.

From December 10, 2001 - June 27, 2005 the City Council repeatedly declared the aforementioned state of local emergency and authorized the continued operation of the pilot program. From July 18, 2005 through July 11, 2006 the City Council was unable to garner the five votes required to authorize the program. Family Health Centers immediately discontinued syringe exchange during this time period, but continued to provide health information and referral services at the approved CSEP sites.

In 2005, the California legislature passed AB 547, amending Health and Safety Code Section 11364.7, and enacting Health and Safety Code Sections 121349-121349.3. Effective January 1, 2006 local jurisdictions were no longer required to declare a state of local emergency in order to authorize a CSEP. Instead, they could now authorize CSEP with a single legislative act. To continue operations, CSEPs were required to submit annual reports to the state and their local jurisdiction for review and approval.

On July 11, 2006 the San Diego City Council passed a resolution authorizing a CSEP. The program was approved to operate in accordance with the Basic and Supplemental Recommendations set forth in the CSEP Facilitation Committee Final Report of May 23, 2006. The program was to be funded by the Alliance Healthcare Foundation and operated by Family Health Centers of San Diego (FHCS), a non-profit community clinic organization. Within several weeks, the CSEP was fully operational at two approved sites and it has continued in operation since that time.

Over 150 U.S. cities have implemented CSEPs. Growth of these public health programs can be attributed in large part to reputable institutions, including Johns Hopkins University, Yale University and the Centers for Disease Control (CDC), that evaluated the practice of clean syringe exchange and determined they:

- 1) curtail the spread of HCV and HIV infection among injection drug users (IDU);
- 2) serve as an important bridge to treatment and recovery from drug use; and
- 3) reduce the risk to police, emergency personnel and the public from contaminated syringes discarded in streets, parks, beaches and other public areas.

To validate the national and international experience in San Diego, SANDAG conducted an extensive evaluation of the San Diego CSEP during the period July 18, 2002 - February 13, 2004¹. The results of this study determined:

- 1) nearly 9 of 10 clients received referral services;
- 2) client injection frequency did not increase; and
- 3) individuals were less likely to reuse syringes, obtain syringes from questionable sources or discard used syringes in the trash after enrolling in the CSEP

CURRENT NEED

The need for CSEP in San Diego continues. According to the San Diego County 2010 HIV/AIDS Epidemiology Report, California has the second highest number of AIDS cases of all states and San Diego County has the third highest rate in the state. Injection drug use (IDU) is the second leading cause of HIV transmission and the leading cause of hepatitis C virus (HCV) in California. Further detail from the County report indicates that:

Roughly 400 new AIDS cases are diagnosed in San Diego each year. 58 San Diegans died of AIDS last year.

8-12% of the men and 23% of the women in San Diego who contracted HIV did so through injection drug use.

While treatments and prognosis for people living with HIV and AIDS have improved dramatically in recent years, these conditions still result in compromised immunity, altered lifestyle, and expensive medical regimens for many who contract them.

In 2009, 2,079 San Diegans were diagnosed with Hepatitis C (HCV.) Injection drug use is the #1 means of contracting HCV. HCV compromises liver function, although it can be present without any symptoms for many years. Those who do exhibit symptoms can experience fatigue, flu-like illness, and depression. 50% of those with HCV do not respond to treatment, but many who do also experience unpleasant side effects. HCV is currently the leading condition necessitating a liver transplant.

Syringe exchange programs reduce the likelihood that these conditions will be passed horizontally to others through the sharing of syringes used to inject drugs. It also reduces the chance of vertical transmission from infected mother to her newborn. Finally, exchange programs greatly reduce the number of dirty syringes that are discarded in places where a public safety officer, trash collector, or park-goer can be accidentally stuck and infected.

¹ Burke, Cynthia, PhD, *City of San Diego Pilot Clean Syringe Exchange Program: Final Evaluation Report*, SANDAG Criminal Justice Research Division, May 2004

The continuing need for this program is also substantiated by the significant increase in participation that is detailed below.

PROGRAM STATUS

CSEP services are provided from a small mobile van during two, ½-day intervals each week at approved sites in Downtown (Thursday evenings) and North Park (Friday mornings). New clients may obtain 2 clean syringes plus starter hygiene kits during their first visit to the program. Once registered, clients complete a one-for-one syringe exchange with up to 50 syringes at each session. After the initial visit, only one-for-one exchanges are completed. Program participants are provided an identification card.

In addition to providing syringe exchange, the CSEP offers clients individualized assistance including HCV and HIV prevention and education materials, case management, information about and referrals to primary medical care and other social service programs, and facilitated referrals to detoxification and substance abuse treatment and rehabilitation programs.

Participation in the program has increased 44% in the last year. Since 2007, the number of syringes exchanged has increased each year. Correspondingly, the utilization of health service referrals has also increased until 2010, when the number of referrals declined. This decrease in referrals is a direct consequence of three factors: 1) The dramatic increase in the number of people using the program, reducing the staff time available for each person during the prescribed hours of operation; 2) decreased staffing levels as a result of funding cuts for CSEP, further impacting the staff/client ratio; and 3) funding cuts by the state and other funders throughout the service community, particularly for HIV/AIDS prevention and drug treatment. As a result, there are fewer places to which to refer exchange program participants.

The following tables demonstrate this increase and also provide a demographic breakout of program participants.

TABLE 1. NUMBERS OF CLIENTS, REFERRALS AND SYRINGES EXCHANGED

	FY 07	FY 08	FY 09	FY 10
New client visits	442	409	496	832
Repeat client visits	3,628	5,099	6,640	9,471
Total client visits	3,708	5,508	7,136	10,290
Total referrals*	4,427	5,583	6,904	3,737
Substance abuse treatment	454	387	508	283
Detoxification services	462	393	517	385
Mental health	26	146	507	156
Primary care	147	1,104	1,188	1,280
Other**	3,338	3,643	4,184	1,633
Total syringes received	127,136	183,701	236,552	307,742
Total syringes disbursed	106,368	172,867	213,175	286,155
Difference***	20,768	10,834	23,377	21,487

* All referrals are assisted. Staff members provide individual support to ensure clients complete referral including: scheduling appointments, providing transportation and accompanying clients as appropriate.

** HIV, hepatitis and STD screening; Medi-Cal, CMS and other benefit programs; food, housing, clothing and shelter

TABLE 2. CLIENT DEMOGRAPHICS AT INTAKE

	FY06	FY07	FY08	FY09	FY10
Gender					
Male	73%	69%	69%	72%	75%
Female	27%	31%	30%	27%	25%
Transgender	0%	<1%	1%	1%	0%
Age (median)	41	38	37	36	33
Ethnicity					
White	80%	67%	70%	69%	69%
African American	2%	6%	3%	3%	3%
Hispanic	9%	20%	20%	20%	21%
Other	8%	8%	8%	8%	7%
Marital Status					
Married	12%	15%	12%	12%	9%
Widow/Sep/ Divorce	24%	25%	16%	18%	17%
Domestic partner	n/a	1%	6%	3%	<1%
Never married	64%	59%	66%	67%	74%
Education					
Elementary/Middle	4%	2%	4%	8%	8%
Less than 12th grade	21%	16%	16%	14%	18%
High School Grad	38%	53%	44%	38%	37%
More than high school	37%	29%	35%	40%	37%
GED (of those who did not finish high school)					
Yes	38%	53%	32%	63%	56%
No	63%	47%	68%	37%	44%
Employed					
Yes	26%	35%	36%	32%	31%
No	74%	65%	64%	68%	69%
Residence					
Own/rents	49%	47%	59%	66%	65%
Someone else's	23%	32%	24%	17%	15%
On the streets	27%	18%	14%	10%	13%
Other	2%	3%	2%	7%	7%

In addition to the increased overall number of program participants, program staff has particularly noted a sharp increase among those aged 18-24, as reflected by the drop in median age. FHCSO has recruited additional volunteers who can support the work of the staff and has also developed referrals specifically suited to young people. Unfortunately, as the need for drug treatment -- especially on an in-patient basis -- increases, resources for those desiring treatment has not kept pace. Waiting periods for treatment "beds" are significant and low-cost and free treatment and detox services are extremely limited.

FUNDING

Alliance Healthcare Foundation funded the first decade of program planning and operations. Without their support, San Diego would likely not have a clean syringe exchange program. In 2009, Alliance redefined its strategic goals and funding priorities. As a result, Alliance decided to stop funding ongoing operational projects and informed Family Health Centers that it would no longer be able to support CSEP, effective June 30, 2010. Shortly thereafter, FHCSO reduced CSEP staffing levels in order to maximize the use of the Alliance funding for core services.

As a result of current State budgetary challenges, funding for all State funded HIV prevention activities has been significantly reduced. More specifically, the \$100,000 in direct funding received by FHCSO to support SEP activities was terminated effective July 1, 2009. Additionally, the funding directed to the County Health Department, which supports some of the wrap-around services for injection drug users, as well as services to which the CSEP project was able to refer clients, was reduced by 63%.

FHCSO is committed to sustaining this vital public health program at no cost to the City of San Diego and has prioritized efforts to find a new major funding source. FHCSO currently has approximately \$500,000 in grant proposals pending before potential funders, including the California HIV Research Program and the MAC AIDS Fund.

Fortunately, this year Congress lifted a ban on the use of federal funds to support syringe exchange programs, which had been in effect since 1988. However, although the ban has been lifted, Congress will have to take such action each year through the annual Appropriations Bill. With the House of Representatives changing hands in the November 2010 election, it is unclear what will happen with the ban.

Due to timing, CDC funds awarded directly to FHCSO through funding announcements released prior to the ban being lifted cannot be used to support the CSEP. However, CDC funds that are received by the State Health Department through a funding announcement released after the ban was lifted, and subsequently dispersed to local health jurisdictions, may be used for CSEP. It is important to note, however, that no additional funds were allocated, so that any funds budgeted for CSEP would come at the expense of other HIV prevention services.

Moreover, the County of San Diego remains opposed to syringe exchange and will not permit funds to be utilized for this purpose. Although the state health department has historically contracted directly with community based organizations to overcome this

barrier, due to the state's budget challenges there has been a movement toward minimizing the number of contracts executed and monitored by the State.

The bottom line is that we cannot depend upon the state or federal governments to fund San Diego's syringe exchange program.

FACILITATION COMMITTEE

After a 4-year hiatus, the CSEP Facilitation Committee was re-appointed by Mayor Sanders on June 4, 2010. This volunteer committee, comprised of individuals with expertise in various aspects of syringe exchange, will meet quarterly to monitor the program and address any issues that arise. The Mayor's memo outlining the charge of the committee and listing its new members is Attachment A to this report.

COUNCIL AUTHORITY REGARDING SITING

Following the adoption of the resolution creating the current CSEP, there was uncertainty about whether the language of the resolution clearly authorized the City Council to approve new sites for the program, should the Facilitation Committee so recommend. FHCSO worked with Councilmember Todd Gloria to obtain a legal opinion from the City Attorney, who confirmed that the Council does have siting authority and that no further changes to the Municipal Code are required. The City Attorney opinion is Attachment B to this report.

POLICE BRIEFINGS

With the assistance of Assistant Chief of Police Cesar Solis and Captain Guy Swanger (Narcotics), FHCSO was able to brief Captains Mark Jones (Central Division) and Walt Vasquez (Western Division) on the program, which operates in their jurisdictions. In addition, FHCSO requested time during pre-shift lineups at each division to brief the officers. The first lineup briefing was done for the evening shift of the Police Department's Central Division, where the downtown exchange site is located. FHCSO staff provided an overview of the program objectives, requirements, restrictions, and accomplishments. Questions were addressed and the mobile unit was available for inspection. The presentation was well received and a similar briefing is planned for the Western Division.

CONCLUSION

The San Diego CSEP continues to be a very effective and necessary program for the community. Since its inception, the CSEP has accepted 156,250 more syringes than it dispensed and has prevented more than 1.3 million syringes from potential improper disposal. As a result, our neighborhood parks, sidewalks and playgrounds are far safer. In addition, the CSEP program has facilitated 2,622 referrals to detoxification services and 2,308 referrals to drug treatment programs.

In the past year, participation in the syringe exchange program has increased, while funding for operations has become more uncertain. Resources to which to refer program participants have also been reduced due to difficult economic times.

Thanks to the leadership of the Mayor of San Diego, the City Council, the CSEP Facilitation Committee, the Alliance Healthcare Foundation and the Family Health Centers of San Diego, the San Diego CSEP is fulfilling its goal of making San Diego a healthier city.



**OFFICE OF MAYOR JERRY SANDERS
CITY OF SAN DIEGO**

MEMORANDUM

DATE : June 4, 2010

TO : Council President Hueso & Honorable Members of the City Council

FROM : Mayor Jerry Sanders

SUBJECT : Establishment and Appointments to the Clean Syringe Exchange Program Facilitation Committee

California Health and Safety Code section 11364.7, which took effect January 1, 2000, decriminalized needle exchange programs operated by public entities provided the City or County declares a local health emergency. On October 16, 2000, the San Diego City Council declared a local health emergency in response to the rapid spread of the Hepatitis C Virus (HVC) and the Human Immunodeficiency Virus (HIV) through the shared use of needles and syringes. The Council continued thereafter to declare the local health emergency approximately biweekly as required by state law.

In November 2001, the City Council directed the city manager to develop and implement a one-year Clean Syringe Exchange Pilot Program with a drug abuse treatment referral component and to convene a Clean Syringe Exchange Program Task Force to determine the proper steps to assure implementation of a program that would benefit the community as a whole.

A Program Facilitation Committee was recommended by that task force as part of its recommended practices and procedures for the pilot program. The Committee was to meet no more than quarterly to review program status and other issues of relevance to program implementation. Its role also included monitoring the pilot program and making recommendations to the City Council at the end of the pilot period.

The city manager appointed the Facilitation Committee in October, 2002. Members included the City's Emergency Medical Services director, representatives from the funding organization, program operator, SANDAG, SDPD, Community and Economic Development Department, and community representatives. The Committee met in accordance with state open meeting laws and frequently heard from members of the public.

The program, and the biweekly emergency declarations, continued until July of 2005, when vacancies on the City Council prevented the biweekly emergency declarations.

In October 2005 the state legislature amended the law to eliminate the requirement for a local declaration of a health emergency. Instead, cities must consult with the California Department of Health Services before authorizing a syringe exchange program as part of a comprehensive network of services to combat the spread of HIV and HCV. The law also requires an annual report to the City Council regarding the status of the syringe exchange program and statistics on blood-borne infections.

The Facilitation Committee determined that the pilot was successful, based largely on research and analysis conducted by SANDAG, and in May 2006 recommended a permanent syringe exchange program. As a result, the City Council adopted a resolution authorizing the permanent CSEP. A series of recommendations by the Facilitation Committee was also adopted, including that the Mayor appoint a CSEP Facilitation Committee once a syringe exchange program was in operation.

Committee Roles and Responsibilities: To review the status of the CSEP and other issues relevant to the operation of CSEP, approve recommendations to adjust or add days, hours of services or replacement of current sites, and propose new sites to the City Council to adjust for client capacity.

Appointment:

Members shall be appointed by the Mayor and shall serve without compensation. The Mayor shall designate one member to serve as Chairperson. Each member shall serve until a successor is duly appointed and qualified. Vacancies shall be filled as vacancies occur.

Composition: Composed of seven (7) members and two ex-officio representatives. The members shall include representatives of private foundations, substance abuse treatment providers, local medical experts with expertise in blood-borne infectious diseases and prevention and treatment, SANDAG, the City's Emergency Medical Services Director, and an At-Large Community Member. Ex-Officio members shall include representatives from the San Diego Police Department and the Program Operator.

In accordance with these composition guidelines, the Mayor shall appoint representatives from each of the following organizations:

- City Emergency Medical Services Medical Director
- SANDAG
- Substance Abuse Treatment Provider
- Private Foundation Representative
- Two Public Health Experts
- At-Large Community Member

Two Ex-Officio Members shall include:

- Program Operator Representative
- San Diego Police Department Representative

The City's Emergency Medical Services Director shall serve as Committee Chair and a Vice Chair will be elected from the body each year during the month of July.

Meetings of the CSEP Facilitation Committee will be conducted quarterly and held in accordance with the Ralph M. Brown Act. The Committee will be governed by the Mayor's establishing document, and will conduct meetings in accordance with Robert's Rules of Order. The Committee shall adopt rules consistent with the law for the government of its business and procedures.


The following seven members have been selected to serve on the CSEP Facilitation Committee:

- City Emergency Medical Services Medical Director – *Dr. James Dunford*
- SANDAG – *Cynthia Burke, Ph.D., Director of Criminal Justice Research Division*
- Substance Abuse Treatment Provider – *Toni Occhipinti, Corporate Services Director, McAlister Institute*
- Private Foundation Representative – *Hamse Warfa, Program Officer, Alliance Healthcare Foundation*
- Two Public Health Experts –
 - *Richard Garfein, Ph.D., Associate Professor, Division of Public Health, Department of Medicine, University of California, San Diego*
 - *Stephanie Kay Brodine, Professor/Head, Epidemiology & Biostatistics Division, San Diego State University*
- At-Large Community Member – *Vicki Granowitz*

Ex-Officio Members shall include:

- Program Operator Representative – *Bob Lewis, Family Health Centers of San Diego*
- San Diego Police Department Representative – *Captain Guy Swanger*

Please join me in acknowledging these members for their generous service to the City of San Diego as members of this committee.


JERRY SANDERS
Mayor

cc: City Attorney Jan Goldsmith
City Clerk Elizabeth Maland

Office of
The City Attorney
City of San Diego

MEMORANDUM
MS 59

(619) 533-5800

DATE: May 24, 2010
TO: Honorable Mayor and City Councilmembers
FROM: City Attorney
SUBJECT: Authority to Approve Additional Sites for, and Changes in Operations to, the Clean Syringe Exchange Program

INTRODUCTION

Since 2006, the Clean Syringe Exchange Program (CSEP) has operated at the Downtown and North Park sites in the City of San Diego. Recently, Councilmember Todd Gloria and Councilmember Marti Emerald forwarded a memorandum to this Office requesting a legal opinion on whether the City has the authority to approve additional sites for, and other changes in operations to, the CSEP.

QUESTIONS PRESENTED

1. May the City approve additional sites for the CSEP?
2. May the City require operational changes to the CSEP?

SHORT ANSWERS

1. Yes. The City, upon the action of the City Council and the Mayor, has the sole authority to approve additional sites for the CSEP.
2. Yes. The City may require certain operational changes to the CSEP. However, the CSEP Facilitation Committee and the CSEP Operator may, without the prior approval of the City, make certain changes in operations to the CSEP relating to the replacement of existing sites and to the days and hours of operation.

BACKGROUND

In October 1999, the California Legislature passed AB 136 (which amended Health and Safety Code section 11364.7, effective January 1, 2000), permitting local jurisdictions to establish clean needle and syringe exchange programs pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

On November 27, 2001, the City Council adopted Resolution No. R-295797, in which the City Council declared a state of local emergency to exist in the City of San Diego due to the spread of the hepatitis C virus and HIV, exacerbated by the shared use of needles and syringes by injection drug users. The City Council also authorized the implementation of a one-year clean needle and syringe exchange pilot program (Pilot Program) linked to drug abuse treatment programs, at no cost to the City and adopted, with modifications, the CSEP Task Force's recommendations contained in its Final Report dated June 12, 2001, including the recommendation for the appointment of a Program Facilitation Committee once the Pilot Program is in operation.

On July 18, 2002, after a two-month site selection process, the Pilot Program began operating in Downtown's East Village one night a week. The City Manager appointed members to a twelve-member Clean Syringe Exchange Program Facilitation Committee (Facilitation Committee) on October 7, 2002 to monitor the Pilot Program and make recommendations to the City Manager and City Council at the conclusion of the Pilot Program. On February 14, 2003, after an eight-month site selection process, the Pilot Program began operating in North Park one day a week.

In October 2005, the California Legislature amended Health and Safety Code section 11364.7 and enacted Health and Safety Code sections 121349 – 121349.3 (effective January 1, 2006). In doing so, the Legislature eliminated the requirement of declaring a state of local emergency as a prerequisite to a public entity's authorization of a clean needle and syringe exchange project, and instead, authorized a clean needle and syringe exchange project in any city upon the action of its city council and mayor in a city without a health department.

On July 11, 2006, the City Council adopted Resolution No. R-301649, in which the City Council authorized the CSEP in the City of San Diego, at no cost to the City. The Council also approved and adopted the Basic Recommendations and Supplemental Recommendations set forth in the Facilitation Committee's Final Report dated May 23, 2006.

The Basic Recommendations and Supplemental Recommendations contained in the Facilitation Committee's Final Report included, among other things, a recommendation that the CSEP be operated at both the Downtown site and the North Park site on a weekly basis at the same hours used for the Pilot Program. The Facilitation Committee also recommended that the CSEP be operated in conformance with specified guidelines, relating to its proximity to schools, the elements of the CSEP (i.e., use of a mobile system, identification cards, on-site computer, standardized script, risk reduction services and kits, printed educational materials, case management, written guidelines regarding staff, and training for staff), the establishment of cooperative relationships between CSEP staff and Police Department staff, and the collection of certain information regarding clients, syringes, referrals, and crime statistics.

Within several weeks of the City Council's adoption and the Mayor's approval of Resolution No. R-301649, the CSEP was fully operational at the Downtown and North Park sites.

DISCUSSION

I. THE CITY, UPON THE ACTION OF THE CITY COUNCIL AND THE MAYOR, IS AUTHORIZED TO APPROVE A CLEAN NEEDLE AND SYRINGE EXCHANGE PROJECT.

California Health and Safety Code section 121349 states, in relevant part:

(b) In order to attempt to reduce the spread of HIV infection and blood-borne hepatitis among the intravenous drug user population within California, the legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any . . . city . . . upon the action of the city council and the mayor of a city without a health department.

(c) The authorization provided under this section shall only be for a clean needle and syringe exchange project as described in Section 121349.1.

Section 121349.1 states, in relevant part:

A . . . city with or without a health department, that acts to authorize a clean needle and syringe exchange project pursuant to this chapter shall, in consultation with the State Department of Health Services, authorize the exchange of clean hypodermic needles and syringes, as recommended by the United States Secretary of Health and Human Services, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and blood-borne hepatitis infection among injection drug users.

Pursuant to these sections, a city without a health department, upon the action of the city council and the mayor, may authorize a clean needle and syringe exchange project, so long as such project conforms with the description set forth in California Health and Safety Code section 121349.1 (Project). Consequently, such a city need not declare a state of local emergency as a prerequisite to that city's authorization of a Project. Instead, such a city may authorize a Project with a single legislative act, allowing the Project to continue unless and until that city decides to terminate the Project.

In 2006, the City of San Diego (which has no health department) exercised such authority. In July of that year, the City Council adopted, and the Mayor subsequently approved, Resolution No. R-301649, in which the City authorized the CSEP in the City, and approved and adopted the Basic Recommendations and Supplemental Recommendations set forth in the Facilitation Committee's Final Report dated May 23, 2006 (which describe the terms and conditions by which the CSEP is to be operated). Pursuant to Resolution No. R-301649, the CSEP continues to be authorized in the City.

II. THE CITY, UPON THE ACTION OF THE CITY COUNCIL AND THE MAYOR, HAS THE SOLE AUTHORITY TO APPROVE ADDITIONAL SITES FOR, AND MOST CHANGES IN OPERATIONS TO, THE CSEP.

Pursuant to Resolution No. R-301649, the CSEP must be operated in conformance with the Basic Recommendations and Supplemental Recommendations set forth in the Facilitation Committee's Final Report dated May 23, 2006. Basic Recommendation II states, in relevant part:

[T]hat the CSEP be operated at both the Downtown site and the North Park site, on a weekly basis at the same hours used for the Pilot Program. In the event that the Facilitation Committee determines that the Downtown and/or North Park site(s) is no longer a suitable location to host the CSEP, then a new site(s) shall be selected in accordance with the site selection procedures used for the Pilot Program

Basic Recommendation III states, "That the CSEP be operated in conformance with specified guidelines," which are outlined in the Background section of this Memorandum. In addition, Supplemental Recommendation IV states: "That the CSEP Operator, with prior approval of the CSEP Facilitation Committee, have the flexibility to adjust or add days and hours of service and to propose new CSEP sites to adjust for client capacity."

Therefore, the CSEP may currently be operated at only two sites, the Downtown site and the North Park site. Although the CSEP Operator may *propose* additional sites for the CSEP, any expansion of the CSEP to additional sites or to change the guidelines set forth in Basic Recommendation III must be approved by the City, upon the action of the City Council and the Mayor.

However, pursuant to Basic Recommendation II and Supplemental Recommendation IV, the Facilitation Committee and the CSEP Operator may, without the prior approval of the City, make certain changes in operations to the CSEP. Under Basic Recommendation II, the CSEP Facilitation Committee may replace the Downtown and/or North Park sites, if the Facilitation Committee determines that one or both sites is no longer a suitable location to host the CSEP, and the replacement site(s) is selected in accordance with the same site selection procedures used for the Pilot Program. Further, under Supplemental Recommendation IV, the CSEP Operator, with the prior approval of the CSEP Facilitation Committee, may adjust or add days and hours of service that the CSEP is operated.

CONCLUSION

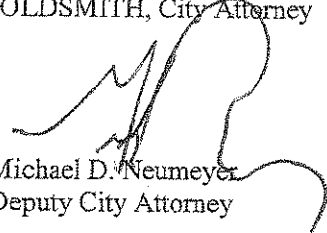
Any expansion of the CSEP to additional sites or changes to the guidelines set forth in Basic Recommendation III of the Facilitation Committee's Final Report dated May 23, 2006 must be approved by the City, upon the action of the City Council and the Mayor. However, a replacement of one or both of the existing CSEP sites and changes to the days and hours of

Honorable Mayor and City Councilmembers
May 24, 2010
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operation may be made by the CSEP Facilitation Committee and CSEP Operator, respectively, without the prior approval of the City.

JAN I. GOLDSMITH, City Attorney

By



Michael D. Neumeyer
Deputy City Attorney

MDN:hm

cc: Independent Budget Analyst